Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2008-1227-MSW-E TCEQ ID: RN105584809 CASE NO.: 36273 RESPONDENT NAME: EGGEMEYER LAND CLEARING, LLC

ORDER TYPE:		
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
_AMENDED ORDER	EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL HAZARDOUS WASTE
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
X MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
TYPE OF OPERATION: Mulching facilit SMALL BUSINESS: _X_Yes] OTHER SIGNIFICANT MATTERS: Therefacility location. INTERESTED PARTIES: No one other the COMMENTS RECEIVED: The Texas Region Means of the Contacts and Mailing List: TCEQ Attorney: Mr. Xavier Gue Ms. Lena Robert TCEQ Enforcement Coordinator TCEQ Regional Contact: Mr. Joe Respondent: Mr. Steven W. Egger		onal pending enforcement actions regarding this terest in this matter. No comments were received. 016 9 n, MC 128, (512) 239-2563 R-13, (210) 403-4010

RESPONDENT NAME: EGGEMEYER LAND CLEARING, LLC

DOCKET NO.: 2008-1227-MSW-E

VIOLATION SUMMARY CHART:		· .
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Total Assessed: \$3,921	Ordering Provision(s):
Complaint X Routine Enforcement Follow-up Records Review	Total Deferred: \$0 Expedited Order Financial Inability to Pay SEP Conditional Offset	The Respondent shall undertake the following technical requirements: 1. Immediately cease accepting and processing any municipal solid waste at the Facility until
Date of Complaint Relating to this Case: None	Total Paid/Due to General Revenue: \$195/\$3,726	properly authorized. 2. Within 15 days:
Date of Investigation Relating to this Case: July 18, 2008	The Respondent paid \$195 of the administrative penalty. The remaining amount of \$3,726 shall be payable in 23 monthly payments of \$162 each.	a. Submit a NOI to operate a recycling facility;
Date of NOE Relating to this Case: July 29, 2008	Site Compliance History Classification High X Average Poor	b. Submit and get approval for a closure cost estimate; and
Background Facts: The EDPRP was filed on February 5, 2009. The Agreed Order was signed June 29, 2009.	Person Compliance History Classification High X Average Poor	c. Develop and submit a fire prevention plan to local fire officials.
Current Compliance Status: Not yet in compliance.	Major Source: Yes _X No Applicable Penalty Policy: September 2002	3. Within 30 days, submit documentation that demonstrates acceptable financial assurance for the closure of the Facility.
140t yet in compitation	Applicable 1 charty 1 oney. September 2002	·
MSW: 1. Failed to notify the TCEQ prior to commencement of new operations [30 Tex. ADMIN. CODE § 328.5(b)].		4. In lieu of Ordering Provisions 1 through 3 above, within 30 days, cease accepting waste and recyclable materials and remove all accumulated materials and dispose at an authorized facility.
2. Failed to submit a written closure cost estimate to the TCEQ and to obtain and maintain financial assurance for the closure of a recycling facility that stores combustible materials outdoors [30 Tex. ADMIN. CODE §§.37.921 and 328.5(c) and (d)].		Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions above.
3. Failed to have a fire prevention and suppression plan [30 Tex. ADMIN. CODE § 328.5(h)].		
	·	

	Penalty Calculation	n Worksheet (P	•	**************************************
Policy Revision 2 (Se	eptember 2002)	···	PCW Revi	ision June 12, 2008
DATES Assigned PCV		EPA Due		
RESPONDENT/FACILIT Responden	Y INFORMATION t Eggemeyer Land Clearing, LLC	40 10 10 10 10 10 10 10 10 10 10 10 10 10		
Reg. Ent. Ref. No	RN105584809		1	
Facility/Site Region	n 13-San Antonio	Major/Minor Source	Minor	
CASE INFORMATION			The state of the s	1 1 4 4 5 6
Enf./Case ID No	. 36273	No. of Violations	3	
	2008-1227-MSW-E	Order Type		
) Municipal Solid Waste	Government/Non-Profit		
Multi-Media	a	Enf. Coordinator		
Admin. Penalty \$	Limit Minimum \$0 Maximum	\$10,000 EC's Team	Enforcement Team 7	
	Penalty Calcula	ation Section		
TOTAL BASE PENA	LTY (Sum of violation base penaltic	es)	Subtotal 1	\$3,000
				CONTRACTOR THE STOR
ADJUSTMENTS (+/-) IOSUBIOIAL1			
Subtotals 2-7 are obta	ained by multiplying the Total Base Penalty (Subtotal 1) by tory 0.0%		otals 2, 3, & 7	\$0
Computative rus]	Ψ0
Notes	The Respondent has no previous history of			
	within the last five ye	ears.		
	e la companya di manana di	<u></u>	The second secon	***
Culpability	NO 0.0%	Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the	e culpability criteria		
Note:	The respondent does not made an	s daipability oritoria.		
	7			
Good Faith Effo	rt to Comply Total Adjustments	는 이를 보았다. 17 분 분들은 사람이 사랑을 받는 것이 되었다는 것을 하는 사용하는 것이 보는 것이 하는 것이 가능하는 것을 받는 것을 받는다.	Subtotal 5	\$0
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Economic Bene		Enhancement* I at the Total EB \$ Amount	Subtotal 6	\$0
Approx	Total EB Amounts \$936 *Capped Cost of Compliance \$1,290	ratthe rotal EB & Amount		
	<u> </u>			
SUM OF SUBTOTAL	S 1-7		inal Subtotal	\$3,000
martine in the case of the decision	The first Control of the control of	Term and described to the second second second		•
OTHER FACTORS A	S JUSTICE MAY REQUIRE	30.7%	Adjustment	\$921
	Subtotal by the indicated percentage.	. Venistrae		· · · · · · · · · · · · · · · · · · ·
	Recommended adjustment to capture the a	voided cost associated with		
Notes	the violation.	voided cost associated with		•
,		Final Per	nalty Amount	\$3,921
		monadiska i at at Malesca in Lie cont. His cont	The transplantation	
STATUTORY LIMIT	ADJUSTMENT	Final Asse	ssed Penalty	\$3,921
	entropoles en la merco de la composición dela composición de la composición de la composición de la composición dela composición dela composición dela composición de la composición dela composición de la composición de la composición del composición dela composición del		a nyopasa na angang gi li na anata	
DEFERRAL		0.0% Reduction	Adjustment	\$0
Reduces the Final Assessed Pe	nalty by the indicted percentage. (Enter number only; e.g.	1. 20 for 20% reduction.)	1	•
	Deferred not offered for now own	ditad a attlama = 1		
Notes	Deferral not offered for non-expe	alled Selllement.		i
			J	•
	. Tuli, investa invest to invest the transfer of the transfer states.	n Naswykina na spaly na makaza ka sa	E PARAMETER STATE OF THE	00.004
PAYABLE PENALTY	医多类性胸膜 医乳腺 医二氯甲磺胺 医电压 医二甲基甲基酚磺基酚	was the second of the control of the	dia Nasa NASA 📗	\$3,921

Screening Date 28-Jul-2008

Docket No. 2008-1227-MSW-E

PCW

Respondent Eggemeyer Land Clearing, LLC

Case ID No. 36273

Policy Revision 2 (September 2002)
PCW Revision June 12, 2008

Adjust

Reg. Ent. Reference No. RN105584809

Component Number of...

>> Compliance History Summary

Compliance

History Notes

Media [Statute] Municipal Solid Waste

Enf. Coordinator John Shelton

Compliance History Worksheet >> Compliance History Site Enhancement (Subtotal 2)

COMPONIONE	114111401 01111		
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0 .	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Pleas	e Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No .	0%
J.101	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Pe		•
t Violator (Su	btotal 3)。當時,其一學是自己的一個一個一個一個一個一個一個一個一個一個一個一個一個一個一個一個一個一個一個	idio Patrolia	
No	Adjustment Pe	ercentage (S	ubtotal 3)
iance History	Person Classification (Subtotal 7)		Walde.
Average P	erformer Adjustment Pe	ercentage (Si	ubtotal 7)
		- ,	,

The Respondent has no previous history of NOVs or Orders at this site within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date	28-Jul-2008	Docket No. 2008-1227-MSW-E	PCW
•	Eggemeyer Land Clearing, LLC		Policy Revision 2 (September 2002)
Case ID No.		·	PCW Revision June 12, 2008
Reg. Ent. Reference No.			
Enf. Coordinator	Municipal Solid Waste		
Violation Number			
Rule Cite(s)	30 Te	ex. Admin. Code § 328.5(b)	
No control of the con			
Violation Description	during an investigation conducted	the commencement of new operations, as do d on July 18, 2008. Specifically, the responder ations without submitting a Notice of Intent (N	nt began
		Bas	e Penalty \$10,000
>> Environmental, Property ar	nd Human Haalth Matrix		
>> Elivironnienai, Property ai	Harm		
Release		linor	
OR Actual			
Potential		Percent 0%	
>>Programmatic Matrix*			
Falsification	Major Moderate M	linor .	
	×	Percent 10%	
Matrix			
Notes	100% of the rule re	quirement was not met.	
		Adjustment	\$9,000
get de gest Calaire and Street des translations de la collection de la col	Tar occupi (university till her Federal – his 1906 stock et et floret av Federal Austria (Alla (Alla (Alla (Al Tariotta)	timinas ilianaka Killianaka ilinkensi almes almas iliki kabe Killianaka Killianaka Killianaka Killianaka ilink	
			\$1,000
Violation Events			orden, en won Produktion
Number of Vi	iolation Events 1	10 Number of violation days	,
account	■ 2578090 - 62580000		
98444	daily		
mark only one	monthly quarterly	Violation Base	Penalty \$1,000
with an x	semiannual		,
outhorn property of the control of t	annuàl		
was a second	single event x		
of tables	One single eve	nt is recommended.	,
and a second			
Good Faith Efforts to Comply	0.0% Reduction Before NOV NOV to	ction EDPRP/Settlement Offer	\$0
4.	Extraordinary	ZEST N. FOCKSONIEN CHIST	
•	Ordinary		
avenue	N/A x (mark w	with x)	
WARP PROPERTY.	The Regnerdent d	eas not most the good faith critoria for this	
NAME OF THE PROPERTY OF THE PR	Notes The Respondent of	oes not meet the good faith criteria for this violation.	
· · · · · · · · · · · · · · · · · · ·			
4 Variation		Violation	Subtotal \$1,000
No extens		The state of the s	
Economic Benefit (EB) for this	violation	Statutory Limit Tes	t
Eati	d EB Amount	\$3 Violation Final Pena	alty Total \$1,307
Esumate	u LD Amount	violation Final Pelis	ως ισται φ1,307
No.	This v	iolation Final Assessed Penalty (adjusted fo	or limits) \$1,307

	E	conomic	Benefit W	orks	sheet		
Respondent	Eggemever Lar	nd Clearing, LLC					
Case ID No.		,					
Reg. Ent. Reference No.							
	Municipal Solid	Monto				.	Years of
		vvasie				Percent Interest	Depreciation
Violation No.	, 1				agreement to the second		
				* **		5.0	15
主題材 化二十二烷二十二二烷烷	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or S						
item becompain	110 0011111100 01 0					·	
Deleved Cooks		Contracts	production of the same and				1000
Delayed Costs				0.00	l \$0	\$0 I	
Equipment Buildings				0.00	\$0	\$0	\$0 \$0
				0.00	\$0	\$0	\$0 \$0
Other (as needed) Engineering/construction				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	18-Jul-2008	23-Mar-2009	0.68	\$3	n/a	\$3
Notes for DELAYED costs	Estimated cos		orior to commencing the Final Date is			Date Required is th	e investigation
Avoided Costs	ANN	UALIZE [1] avoid	ed costs before e			one-time avoided c	
Disposal				0.00	\$0	. \$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs						•	
Approx. Cost of Compliance		\$100			TOTAL		\$3

Respondent Case ID No.	28-Jul-2008		Dockeri	No. 2008-1227-MS\	V-L	PCW
Case ID No	Eggemeyer La	and Clearing, LLC			Policy Re	vision 2 (September 2002)
					. PC	W Revision June 12, 2008
Reg. Ent. Reference No.						
Media [Statute]		d Waste				
Enf. Coordinator		1			•	
Violation Number	2	L				
Rule Cite(s)		30 Tex. Adr	min. Code §§ 37.921	, 328.5(c) and (d)		
77	Failed to to a	hmit a written ales	ura cast astimata ta	the TCEQ and to ob	toin and maintain	
Violation Description	financial ass outdoors, as d the Responde	urance for the clos locumented during ent operates a recy	sure of a recycling factor an investigation con color of the facility that store	cility that stores com nducted on July 18, 2 res combustible mate at estimate and finance	bustible material 2008. Specifically, erials (i.e., brush,	÷
COORDINATE VALLACIONALIA					Base Penalty	\$10,000
		mination Arrive and ann and indicated	ipālainiemienīs izmiremis izšīvijas ils	e makinan-kermaniki menenanen da	Professions.	
>> Environmental, Property an	d Human H					
Release	Мајог	Harm Moderate	Minor			
OR Actual						
Potential				Percent	0%	
	Aprillandi (Santana Santana	and and the first own of the second state of the second	maga), ogranosadanin edakti isma		<u></u>	
>>Programmatic Matrix		en en soland		ereo Eta		
Falsification	Major	Moderate	Minor	Davis L	100/	
	X ·			Percent	10%	•
Matrix		100% of the rule	requirement was no	at met		
Notes		100% of the fule	requirement was no	i met.		
				Adjustment	\$9,000	
free free free free free free free free			- ESTATE BASE ON THE CONTROL OF SHEET AND THE BASE OF THE CONTROL OF T	3.35.25.15.15.22.43.5.34.44		
- respectively.					L	\$1,000
Violation Events				inaskoloja <i>ei</i> lijue		
Number of Vic	olation Events	1	10	Number of violat	ion days	
	15		<u> </u>		·	
	daily					
	monthly					
	quarterly					
mark only one	기상하다 시간 사람들이 사라 있다.			Violati	on Base Penalty	\$1,000
mark only one with an x	semiannual			Violati	on Base Penalty	\$1,000
	semiannual annual	Х		Violati	on Base Penalty	\$1,000
	semiannual	X		Violati	on Base Penalty	\$1,000
	semiannual annual	x		Violati	on Base Penalty	\$1,000
	semiannual annual		vent is recommende		on Base Penalty	\$1,000
	semiannual annual		vent is recommende		on Base Penalty	\$1,000
with an x	semiannual annual	One annual e			on Base Penalty	
	semiannual annual	One annual e	uction	ed.	on Base Penalty	\$1,000 \$50
Good Faith Efforts to Comply	semiannual annual annual single event	One annual e		ed.	on Base Penalty	
Good Faith Efforts to Comply	semiannual annual annual single event	One annual e	uction	ed.	on Base Penalty	
Good Faith Efforts to Comply	semiannual annual single event Extraordinary Ordinary	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Of	ed.	on Base Penalty	
Good Faith Efforts to Comply	semiannual annual annual single event	One annual e 0.0% Redi Before NOV NOV	uction	ed.	on Base Penalty	
Good Faith Efforts to Comply	semiannual annual single event Extraordinary Ordinary N/A	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Of with x)	ed.		
Good Faith Efforts to Comply	semiannual annual single event Extraordinary Ordinary	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Or with x)	ed.		
Good Faith Efforts to Comply	semiannual annual single event Extraordinary Ordinary N/A	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Of with x)	ed.		
Good Faith Efforts to Comply	semiannual annual single event Extraordinary Ordinary N/A	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Of with x)	ed. Iffer good faith criteria for		
Good Faith Efforts to Comply	semiannual annual annual single event Extraordinary Ordinary N/A Notes	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Of with x)	ed. ffer good faith criteria for	this	\$0
Good Faith Efforts to Comply	semiannual annual annual single event Extraordinary Ordinary N/A Notes	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Of with x)	ed. Iffer good faith criteria for	this	\$0
Good Faith Efforts to Comply Economic Benefit (EB) for this	semiannual annual annual single event Extraordinary Ordinary N/A Notes	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Or with x) does not meet the giviolation.	good faith criteria for Vi	this iolation Subtotal init Test	\$1,000
Good Faith Efforts to Comply Economic Benefit (EB) for this	semiannual annual annual single event Extraordinary Ordinary N/A Notes	One annual e 0.0% Redi Before NOV NOV	uction to EDPRP/Settlement Or with x)	good faith criteria for Vi	this	\$0

	E	conomic	Benefit W	/orks	sheet		
Respondent	Fagemeyer Lar	nd Clearing, LLC			1 1	***************************************	The Description
Case ID No.							
Reg. Ent. Reference No.							
		Monto					Years of
	Municipal Solid	vvasie				Percent Interest	Depreciation
Violation No.	2				4	h a transfer	Debleciation
		and the first of				5.0	15
그는 하루 그 승규가 있었다. 그 그	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs	A STATE					sala yaran i	
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0,00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	1			0.00	\$0	n/a	\$0
Other (as needed)	\$250	18-Jul-2008	23-Mar-2009	0.68	\$8	n/a	\$8
Notes for DELAYED costs Avoided Costs			the estimat	ed date i	f compliance.	estigation date and t	osts)
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$840	18-Jul-2007	18-Jul-2008	1.92	\$81	\$840	\$921
Notes for AVOIDED costs	Estimated cos				ility. The Date Rec	quired is the beginnir date.	ng date of the

i	reening Date 28-		Docket No. 2008-1227-MSW-E	PCW
n, man country	-	gemeyer Land Clearing, LLC		Policy Revision 2 (September 2002)
- Capacitation	Case ID No. 362			PCW Revision June 12, 2008
Reg. Ent. Re	<mark>eference No.</mark> RN	l105584809		
Me	dia [Statute] Mu	ınicipal Solid Waste	•	
	Coordinator Jol	nn Shelton		
Vic	olation Number	3		
	Rule Cite(s)	30 Tex	k. Admin. Code § 328.5(h)	
			3(.,)	·
in the second se		Failed to have a fire provention	and suppression plan as desumented a	during an
Violati	on Description	investigatio	n and suppression plan, as documented on conducted on July 18, 2008.	outing an
e de la companya de l			.,,,	
				·
	<u> </u>			-
				Base Penalty \$10,000
es escara - mineral descripción de la contractión de 1970	ego como comprese con como mesmo de Como mos	ing pagagan ang managan na pagan na katalan ang pagagan na pagan na pagan na pagan na pagan na pagan na pagan	San Trian (1922) ya 1928, 25 Yan da Garra (2 - 2 an 1935) ya 1922 ya 1923 a 1923 a 1923 a 1923 a 1923 a 1923 a	Sone.
>> Environmental	, Property and F	Human Health Matrix		
	Dalassa	Harm Madarata Min		
OR	Release Actual	Major Moderate Min		
Y 1.	Potential		Percent C	0%
	Foterman		1 Growing C	·····
>>Programmatic I	Vatrix			
. , rogianimano i	Falsification	Major Moderate Min	or and the second s	
		x		9%
				
Matrix		100% of the rule rec	uirement was not met.	
Notes				
			Adjustment	\$9,000
	with the control of t	ter kantininaan 200 metali 200 ilin maa kuliste limuustee turaan maatta tabaab Andarda.	gpiiii 5	
				\$1,000
anilaan hiirissississikaanin sakala sala				
Violation Events				REESTANIS
,	Number of Violati	ion Events 1	10 Number of violation	dave
	Number of Violati	IOTI EVENIS	To prediction	uayo
		daily	•	
		monthly	·	
	E.973N	quarterly	Violation	Base Penalty .\$1,000
		miannual		- 1
		annual		
,	sir	ngle event. x		
				N
		One single even	t is recommended.	
		•••		
Good Faith Efforts	s to Comply	0.0% Reducti	on EDPRP/Settlement Offer	\$0
	Est	Before NOV NOV to E		·
	. LX	·		·
		Ordinary		,
		N/A x (mark with	1 X)	
		The Respondent do	es not meet the good faith criteria for this	
		Notes / The Respondent do	violation.	
			Viola	tion Subtotal \$1,000
			, Viola	φ1,000
Economic Benefit	(EB) for this vic	olation	Statutory Limit	Test
	A.T. in Indian Sandane or Society		i asaanteen etietiitii Oori lähiliste lähi Sakiiniste tää Sakii Sakii Tiiti Sakii Tiiti Sakii oli kaasaa ka ku Vai	aleste ineletikansk skulderske er len Skorf Sunfan et benedatillet.
	Estimated El	3 Amount	\$3 Violation Final	Penalty Total \$1,307
		This vi	olation Final Assessed Penalty (adjust	ed for limits) \$1,307

Reg. Ent. Reference No	RN105584809						
	a Municipal Solid	l Waste				Percent Interest	Years of Depreciation
	an in the second				급화 보기를 쓴	5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Descriptio	n No commas or \$				we taris		
i i juga je na og a jakom Dodompao	TO COMMISSION OF	45 44					
Delayed Cost	s	Fr. 1.1	1.0			and the second	. Digital and the
Equipment				0,00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	* \$0
	2100						
Other (as needed)	\$100	18-Jul-2008	23-Mar-2009	0.68	\$3	and make available	\$3
Notes for DELAYED costs	Estimated prevention auth	cost to draft a site s norities. Date Requi	pecific fire preven	tion and ation dat	suppression plan e and Final Date i	and make available s the estimated date	to local fire of compliance.
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Notes for DELAYED costs AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated prevention auth	cost to draft a site s norities. Date Requi	pecific fire preven	tion and ation dat ntering 0.00 0.00 0.00 0.00 0.00 0.00	suppression plan e and Final Date i item (except for 6 \$0 \$0 \$0 \$0 \$0 \$0 \$0	and make available s the estimated date one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	to local fire of compliance. osts) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$

Compliance History

Rating: 2.00

Site Rating: 3.01

Classification: AVERAGE Customer/Respondent/Owner-Operator: CN603114612 Eggemeyer Land Clearing, LLC EGGEMEYER LAND CLEARING LLC -Classification: AVERAGE BY Regulated Entity: RN105584809 HWY 90 AND PUE RD DEFAULT ID Number(s): PUE RD AND W US HWY 90 - BETWEEN PUE RD AND Rating Date: September 01 07 Repeat Violator: NO Location: LAFB - LAFB AND SAN ANTONIO - BEXAR COUNTY TCEQ Region: **REGION 13 - SAN ANTONIO** July 28, 2008 Date Compliance History Prepared: Agency Decision Requiring Compliance History: Enforcement July 28, 2003 to July 28, 2008 Compliance Period: TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Colin Barth Phone: (512) 239-0086 Name: Site Compliance History Components 1. Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a (known) change in ownership of the site during the compliance period? No N/A 3. If Yes, who is the current owner? 4. if Yes, who was/were the prior owner(s)? N/A 5. When did the change(s) in ownership occur? N/A Components (Multimedia) for the Site: Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. Any criminal convictions of the state of Texas and the federal government. В. N/A Chronic excessive emissions events. N/A The approval dates of investigations. (CCEDS Inv. Track. No.) D. N/A Written notices of violations (NOV). (CCEDS Inv. Track. No.) E. Environmental audits. F. N/A G. Type of environmental management systems (EMSs). N/A H. Voluntary on-site compliance assessment dates.

Participation in a voluntary pollution reduction program.

Early compliance. N/A Sites Outside of Texas N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING EGGEMEYER LAND CLEARING, LLC; RN105584809

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1227-MSW-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Eggemeyer Land Clearing, LLC ("Eggemeyer") under the authority of Tex. Water Code ch. 7 and Tex. Health & Safety Code ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Eggemeyer, appear before the Commission and together stipulate that:

- 1. Eggemeyer owns and operates a mulching facility located at Pue Road and West US Highway 90, San Antonio, Bexar County, Texas (the "Facility").
- 2. This Agreed Order is entered into pursuant to Tex. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to Tex. WATER CODE § 5.013 because it alleges violations of Tex. Health & Safety Code ch. 361 and TCEQ rules.
- 3. The Commission and Eggemeyer agree that the Commission has jurisdiction to enter this Agreed Order, and that Eggemeyer is subject to the Commission's jurisdiction.
- 4. Eggemeyer received notice of the violations alleged in Section II ("Allegations") on or about August 2, 2008.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Eggemeyer of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of three thousand nine hundred twenty-one dollars (\$3,921.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). Eggemeyer paid one hundred ninety-five dollars (\$195.00) of the administrative penalty. The remaining amount of three thousand seven hundred twenty-six dollars (\$3,726.00) of the administrative penalty shall be payable in 23 monthly payments of one hundred sixty-two dollars (\$162.00) each, pursuant to 30 Tex. Admin. Code § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Eggemeyer fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Eggemeyer's failure to meet the payment schedule of this Agreed Order constitutes the failure by Eggemeyer to timely and satisfactorily comply with all of the terms of this Agreed Order

- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and Eggemeyer agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Eggemeyer has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

- 1. During an investigation conducted on July 18, 2008, a TCEQ San Antonio Regional Office investigator documented that Eggemeyer violated:
 - a. 30 Tex. Admin. Code § 328.5(b) by failing to notify the TCEQ prior to commencement of new operations. Specifically, Eggemeyer began mulching and recycling operations without submitting a Notice of Intent ("NOI");

- b. 30 Tex. Admin. Code §§ 37.921, and 328.5(c) and (d) by failing submit a written closure cost estimate to the TCEQ and to obtain and maintain financial assurance for the closure of a recycling facility that stores combustible materials outdoors. Specifically, Eggemeyer operates a recycling facility that stores combustible materials (i.e., brush and mulch) outdoors without the required closure cost estimate and financial assurance; and
- c. 30 Tex. Admin. Code § 328.5(h) by failing to have a fire prevention and suppression plan.

III. DENIALS

Eggemeyer generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Eggemeyer pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Eggemeyer's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Eggemeyer Land Clearing, LLC, Docket No. 2008-1227-MSW-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. Eggemeyer shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Eggemeyer shall cease accepting and processing any municipal solid waste at the Facility until properly authorized;
 - b. Within 15 days after the effective date of this Agreed Order, Eggemeyer shall:

- i. Submit a NOI to operate a recycling facility, in accordance with 30 Tex. ADMIN. CODE § 328.5(b);
- ii. Submit and get approval for a closure cost estimate, in accordance with 30 Tex. Admin. Code § 328.5(c); and
- iii. Develop and submit a fire prevention plan to local fire officials, in accordance with 30 Tex. ADMIN. CODE § 328.5(h);
- c. Within 30 days after the effective date of this Order, Eggemeyer shall submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 Tex. ADMIN. CODE §§ 37.921 and 328.5(d) to:

Financial Assurance Team, MC 184 Texas Commission on Environmental Quality P. O. Box 13087 Austin, Texas 78711-3087

d. In lieu of 2.a. through 2.c., within 30 days after the effective date of this Order, Eggemeyer shall cease accepting waste and recyclable materials and remove all accumulated materials and dispose at an authorized facility.

Submit documentation, including Docket Number, for 2.b. through 2.d. to:

Municipal Solid Waste Permits Section, MC 124 Texas Commission on Environmental Quality P. O. Box 13087 Austin, Texas 78711-3087

With a copy to:

San Antonio Regional Office Texas Commission on Environmental Quality 14250 Judson Road San Antonio, Texas 78233-4480

e. Within 45 days after the effective date of this Order, Eggemeyer shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Eggemeyer shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.d. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Mr. Joel Anderson, Waste Section Manager Texas Commission on Environmental Quality San Antonio Regional Office 14250 Judson Road San Antonio, Texas 78233-4480

- 3. The provisions of this Agreed Order shall apply to and be binding upon Eggemeyer. Eggemeyer is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If Eggemeyer fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Eggemeyer's failure to comply is not a violation of this Agreed Order. Eggemeyer shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Eggemeyer shall notify the Executive Director within seven days after Eggemeyer becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Eggemeyer shall be

Eggemeyer Land Clearing, LLC Docket No. 2008-1227-MSW-E Page 6

made in writing to the Executive Director. Extensions are not effective until Eggemeyer receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

- 6. This Agreed Order, issued by the Commission, shall not be admissible against Eggemeyer in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Eggemeyer, or three days after the date on which the Commission mails notice of the Order to Eggemeyer, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Eggemeyer Land Clearing, LLC Docket No. 2008-1227-MSW-E Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
appregner Perdue	8/17/09
For the Executive Director	Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Eggemeyer's compliance history;
- Greater scrutiny of any permit applications submitted by Eggemeyer;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Eggemeyer;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Eggemeyer; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Steven Eggeneya.
Name (Printed or typed)

Authorized representative of Eggemeyer Land Clearing, LLC Date

Title